



Republic of the Philippines
SUPREME COURT
Manila

SECOND DIVISION

G.R. No. 73867 February 29, 1988

TELEFAST COMMUNICATIONS/PHILIPPINE WIRELESS, INC., petitioner,
vs.

IGNACIO CASTRO, SR., SOFIA C. CROUCH, IGNACIO CASTRO JR., AURORA CASTRO, SALVADOR CASTRO, MARIO CASTRO, CONRADO CASTRO, ESMERALDA C. FLORO, AGERICO CASTRO, ROLANDO CASTRO, VIRGILIO CASTRO AND GLORIA CASTRO, and HONORABLE INTERMEDIATE APPELLATE COURT, respondents.

PADILLA, J.:

Petition for review on certiorari of the decision * of the Intermediate Appellate Court, dated 11 February 1986, in AC-G.R. No. CV-70245, entitled "Ignacio Castro, Sr., et al., Plaintiffs-Appellees, versus Telefast Communication/Philippine Wireless, Inc., Defendant-Appellant."

The facts of the case are as follows:

On 2 November 1956, Consolacion Bravo-Castro wife of plaintiff Ignacio Castro, Sr. and mother of the other plaintiffs, passed away in Lingayen, Pangasinan. On the same day, her daughter Sofia C. Crouch, who was then vacationing in the Philippines, addressed a telegram to plaintiff Ignacio Castro, Sr. at 685 Wanda, Scottsburg, Indiana, U.S.A., 47170 announcing Consolacion's death. The telegram was accepted by the defendant in its Dagupan office, for transmission, after payment of the required fees or charges.

The telegram never reached its addressee. Consolacion was interred with only her daughter Sofia in attendance. Neither the husband nor any of the other children of the deceased, then all residing in the United States, returned for the burial.

When Sofia returned to the United States, she discovered that the wire she had caused the defendant to send, had not been received. She and the other plaintiffs thereupon brought action for damages arising from defendant's breach of contract. The case was filed in the Court of First Instance of Pangasinan and docketed therein as Civil Case No. 15356. The only defense of the defendant was that it was unable to transmit the telegram because of "technical and atmospheric factors beyond its control." ¹ No evidence appears on record that defendant ever made any attempt to advise the plaintiff Sofia C. Crouch as to why it could not transmit the telegram.

The Court of First Instance of Pangasinan, after trial, ordered the defendant (now petitioner) to pay the plaintiffs (now private respondents) damages, as follows, with interest at 6% per annum:

1. Sofia C. Crouch, P31.92 and P16,000.00 as compensatory damages and P20,000.00 as moral damages.
2. Ignacio Castro Sr., P20,000.00 as moral damages.
3. Ignacio Castro Jr., P20,000.00 as moral damages.
4. Aurora Castro, P10,000.00 moral damages.
5. Salvador Castro, P10,000.00 moral damages.
6. Mario Castro, P10,000.00 moral damages.
7. Conrado Castro, P10,000 moral damages.
8. Esmeralda C. Floro, P20,000.00 moral damages.

9. Agerico Castro, P10,000.00 moral damages.
10. Rolando Castro, P10,000.00 moral damages.
11. Virgilio Castro, P10,000.00 moral damages.
12. Gloria Castro, P10,000.00 moral damages.

Defendant is also ordered to pay P5,000.00 attorney's fees, exemplary damages in the amount of P1,000.00 to each of the plaintiffs and costs. ²

On appeal by petitioner, the Intermediate Appellate Court affirmed the trial court's decision but eliminated the award of P16,000.00 as compensatory damages to Sofia C. Crouch and the award of P1,000.00 to each of the private respondents as exemplary damages. The award of P20,000.00 as moral damages to each of Sofia C. Crouch, Ignacio Castro, Jr. and Esmeralda C. Floro was also reduced to P120,000. 00 for each. ³

Petitioner appeals from the judgment of the appellate court, contending that the award of moral damages should be eliminated as defendant's negligent act was not motivated by "fraud, malice or recklessness."

In other words, under petitioner's theory, it can only be held liable for P 31.92, the fee or charges paid by Sofia C. Crouch for the telegram that was never sent to the addressee thereof.

Petitioner's contention is without merit.

Art. 1170 of the Civil Code provides that "those who in the performance of their obligations are guilty of fraud, negligence or delay, and those who in any manner contravene the tenor thereof, are liable for damages." Art. 2176 also provides that "whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done."

In the case at bar, petitioner and private respondent Sofia C. Crouch entered into a contract whereby, for a fee, petitioner undertook to send said private respondent's message overseas by telegram. This, petitioner did not do, despite performance by said private respondent of her obligation by paying the required charges. Petitioner was therefore guilty of contravening its obligation to said private respondent and is thus liable for damages.

This liability is not limited to actual or quantified damages. To sustain petitioner's contrary position in this regard would result in an inequitable situation where petitioner will only be held liable for the actual cost of a telegram fixed thirty (30) years ago.

We find Art. 2217 of the Civil Code applicable to the case at bar. It states: "Moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury. *Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate results of the defendant's wrongful act or omission.*" (Emphasis supplied).

Here, petitioner's act or omission, which amounted to gross negligence, was precisely the cause of the suffering private respondents had to undergo.

As the appellate court properly observed:

[Who] can seriously dispute the shock, the mental anguish and the sorrow that the overseas children must have suffered upon learning of the death of their mother after she had already been interred, without being given the opportunity to even make a choice on whether they wanted to pay her their last respects? There is no doubt that these emotional sufferings were proximately caused by appellant's omission and substantive law provides for the justification for the award of moral damages. ⁴

We also sustain the trial court's award of P16,000.00 as compensatory damages to Sofia C. Crouch representing the expenses she incurred when she came to the Philippines from the United States to testify before the trial court. Had petitioner not been remiss in performing its obligation, there would have been no need for this suit or for Mrs. Crouch's testimony.

The award of exemplary damages by the trial court is likewise justified and, therefore, sustained in the amount of P1,000.00 for each of the private respondents, as a warning to all telegram companies to observe due diligence in transmitting the messages of their customers.

WHEREFORE, the petition is DENIED. The decision appealed from is modified so that petitioner is held liable to private respondents in the following amounts:

- (1) P10,000.00 as moral damages, to each of private respondents;

- (2) P1,000.00 as exemplary damages, to each of private respondents;
- (3) P16,000.00 as compensatory damages, to private respondent Sofia C. Crouch;
- (4) P5,000.00 as attorney's fees; and
- (5) Costs of suit.

SO ORDERED.

Yap (Chairman), Paras and Sarmiento, JJ., concur.

Separate Opinions

MELENCIO-HERRERA, J., concurring.

[I] concur. In addition to compensatory and exemplary damages, moral damages are recoverable in actions for breach of contract, as in this case, where the breach has been wanton and reckless, tantamount to bad faith.

Separate Opinions

MELENCIO-HERRERA, J., concurring.

[I] concur. In addition to compensatory and exemplary damages, moral damages are recoverable in actions for breach of contract, as in this case, where the breach has been wanton and reckless, tantamount to bad faith.

Footnotes

* Penned by Justice Serafin E. Camilon, with the concurrence of Justices Crisolito Pascual, Jose C. Campos, Jr. and Desiderio P. Jurado.

1 Rollo at 8.

2 Rollo at 9-10.

3 Rollo at 14,

4 Rollo at 13.